

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF DELAWARE

TERRI LEE MEYERS,)	
)	
Plaintiff,)	
)	
v.)	C.A. No. 06-117-SLR
)	
PATRICK RYAN, COLLEEN)	
SHOTZBERGER, and GEORGE)	
O'CONNER)	
Defendants.)	

ANSWER TO AMENDED COMPLAINT

State Defendants, Ryan, Shotzberger and O'Conner, by and through undersigned counsel hereby answer the complaint as follows:

I. Parties

1-5. Admitted.

II. Jurisdiction and Venue

6 -7. This as a legal conclusion to which no response is required.

III. Facts

8. Admitted.

9. Denied.

10. Admitted.

11. Denied.

12. Denied.

13. Admitted.

14 –18 Defendants are without knowledge or information to form the truth of this

allegation, therefore deny same.

19-21 Denied.

22-24 Denied.

25. Admitted.

26-36 Denied.

37. Defendants deny that they acted to prevent plaintiff from conducting legal work.

By way of further answer, Defendants are without knowledge or information to form the truth of this allegation, therefore deny same.

38. Defendants are without knowledge or information to form the truth of this allegation, therefore deny same.

39. Denied.

40. Denied

Count I

41. Defendants hereby incorporate by reference the foregoing answers to the amended complaint as set forth herein.

42-45 State Defendants deny that they subjected or caused to be subjected, Plaintiff to the deprivation of any rights protected by state and/or federal law. By way of further answer, Defendants deny the allegation as a legal conclusion to which no response is required.

Count II

46. Defendants hereby incorporate by reference the foregoing answers to the amended complaint as set forth herein.

47-55 Defendants deny the allegations as legal conclusions to which no response is

required.

Relief Demanded

It is specifically denied that Plaintiff is entitled to any relief requested.

Affirmative Defenses

56. Plaintiff failed to exhaust her administrative remedies.
57. Plaintiff's suit for monetary damages against State Defendants as set forth in her request for relief is barred by the Eleventh Amendment to the United States Constitution.
58. State Defendants have not waived immunity from liability.
59. State Defendants are not "persons" for the purposes of 42 U.S.C. § 1983, and are outside the class of persons subject to liability under the statute.
60. Plaintiff's suit for injunctive relief is barred by the Eleventh Amendment.
61. Plaintiff fails to state a claim against the State Defendants in their individual capacities.
62. Plaintiff failed to show that State Defendants are liable for alleged constitutional deprivations in the absence of any State Defendants' personal involvement.
63. Plaintiff is barred from suit imposing § 1983 liability against State Defendants on the basis of a *respondeat superior* theory.
64. To the extent of actual involvement, State Defendants acted in good faith, as state officers, or as individuals in all actions which relate to the Plaintiff, and therefore, are immune from all claims alleged in Plaintiff's complaint.
65. To the extent that Plaintiff is claiming injury against Defendants for conduct occurring before August 23, 2004, those claims are barred by the applicable statute of limitations.

66. To the extent that Plaintiff is claiming injury against State Defendants arising from defendants alleged misconduct, Plaintiff's claims are barred and/or limited by the applicable provisions of the Delaware Comparative Negligence Act, 10 Del. § 8132.

Wherefore, the State Defendants demand that judgment be entered in their favor as to all claims and against the plaintiff as to all claims, and attorney's fees and costs be awarded to defendants.

**STATE OF DELAWARE
DEPARTMENT OF JUSTICE**

/s/ Ophelia M. Waters
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820 North French Street, 6th Floor
Wilmington, Delaware 19801
(302) 577-8400
Counsel for State Defendants

Dated: February 21, 2007

CERTIFICATE OF SERVICE

I hereby certify that on February 21, 2007, I electronically filed an *Answer to Amended Complaint* with the Clerk of Court using CM/ECF which will send notification of such filing to the following:

Julia M. Graff, Esquire, I.D. #4708
ACLU of Delaware
100 W. 10th Street, Suite 309
Wilmington, Delaware 19801

Liam Y. Braber, Esquire
Christopher I. McCabe, Esquire
Jacoby Donner, P.C.
1700 Market Street, Ste. 3100
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**STATE OF DELAWARE
DEPARTMENT OF JUSTICE**

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